



**United Nations
Conference
on Trade and
Development**

Distr.
GENERAL

TD/B/COM.2/59
24 November 2003

Original: ENGLISH

TRADE AND DEVELOPMENT BOARD

Commission on Investment, Technology and Related Financial Issues

Eighth session

Geneva, 26-30 January 2004

Item 5 of the provisional agenda

**SUMMARY OF DELIBERATIONS OF THE INVESTMENT POLICY REVIEWS OF
LESOTHO AND NEPAL***

Executive summary

This document contains a summary of the deliberations on the Investment Policy Reviews completed since the seventh session of the Commission on Investment, Technology and Related Financial Issues. The Investment Policy Review of Lesotho took place back-to-back with the Trade Policy Reviews of the Southern African Customs Union member countries at the WTO on 23 April 2003 in order to allow member States to consider having their representatives attend both events. The President of the Trade and Development Board chaired the meeting. The Investment Policy Review of Nepal was presented on 25 June 2003 back-to-back with the Expert Meeting on Effectiveness of FDI Policy Measures held from 25 to 27 June. The Chairman of the Expert Meeting chaired the deliberations.

* The preparation of this document was delayed because the secretariat originally wanted to include coverage of the deliberations on the Investment Policy Review for Sri Lanka, which has now been postponed.

I. INVESTMENT POLICY REVIEW OF LESOTHO

1. The Investment Policy Review of Lesotho was presented on 24 April 2003. Introducing it, the representative of the UNCTAD secretariat underlined that Lesotho has made credible efforts in liberalizing the environment for investment and succeeded in attracting export-oriented FDI into garments manufacturing. The challenge will be for it to sustain existing investments. This will require addressing weaknesses in some aspects of the regulatory framework, human resources development, the local enterprise sector, physical infrastructure, and the public-private sector interface that could impact on future investment inflows. Several strategic policy challenges were identified. It was underlined that the Government's efforts should be matched by assistance from its development partners, especially the European Union, the United States and South Africa, while Lesotho makes the transition that will allow local investors to take hold.

2. The head of the Lesotho delegation, the Minister of Trade, Industry and Marketing, highlighted the Government's objectives on foreign direct investment (FDI), which are to diversify FDI into tourism, mining and services in order to reduce susceptibility to relying only on FDI in garments manufacturing. The positive outcome of the democratic elections of May 2002 and the Government's commitment to rule of law and to rules of multilateral trade are having a significant impact on Lesotho's investment climate. In undertaking an Investment Policy Review (IPR), the Government recognized the need to stay competitive and to ensure that the investment framework reflects prevailing realities.

3. He informed the meeting that the Government is committed to following through on some of the recommendations in the UNCTAD Review, and some of the weaknesses in the regulatory framework and the investment environment are being addressed. Measures include setting up a Revenue Authority and a one-stop shop for investors, and considering implementing a demand-driven approach to education and training. He affirmed that Lesotho will take optimum advantage of trade preference schemes operated by the United States, the European Union and Canada, and urged the United States to extend the African Growth and Opportunity Act (AGOA), since withdrawing this benefit in 2004 could undermine Lesotho's current growth. He appealed to the UNCTAD secretariat and to Lesotho's development partners for support in implementing the follow-up to the IPR and for technical assistance for capacity building.

4. Representatives of Bangladesh, Canada, Germany, Mauritius, Sri Lanka, Uganda and the United Kingdom, the spokespersons for Africa, Asia and China, and Latin America and the Caribbean, and the representative of the WTO expressed appreciation for the high-level participation by the Government of Lesotho. The representative of Germany said that, as in past reviews, the discussions provided additional helpful insights. All the participants complimented the Government of Lesotho for its strong commitment to improving the investment climate. Two senior government officials from the Southern African Customs Union (SACU) – the Minister of Trade and Industry of Botswana and the Deputy Director-General of the Ministry of Trade and Industry of South Africa – underlined that it is the favourable climate which Lesotho has created that investors could take advantage of when trade privileges came into play. The challenges will not be static, and the key will be to continually improve the investment climate.

5. All the participants called for the continued support of Lesotho's development partners to improve special market access schemes for Lesotho during its adjustment in the medium

and long term, which would help Lesotho to graduate eventually from least developed country (LDC) status. They also stressed the importance of assisting Lesotho in implementing the recommendations of the IPR. Three private-sector representatives, of whom two are current investors in Lesotho and one is a potential investor, also shared their views on investing in Lesotho. The two current investors acknowledged the welcoming investment environment in Lesotho and said that their confidence in the country would lead them to expand their investments. However, they also underlined that bottlenecks identified in the UNCTAD Review should be addressed, as this would be critical to improving the country's and firms' competitiveness. They hoped that the Government's commitment to policy reforms would continue.

6. The representatives of the United Kingdom and WTO underlined that the IPR of Lesotho, which was carried out within the Integrated Framework for Trade-Related Technical Assistance and contributed to the Poverty Reduction Strategy Paper, is a good example of interagency cooperation between UNCTAD and other development partners. Also, the integrated approach will help to ensure that recommendations on key issues of investment, trade and growth reinforce each other and that action plans are streamlined.

7. The peer review on Lesotho was very productive and constructive. The session successfully engaged the Government of Lesotho in a policy dialogue with the international community and the private sector. On the whole, there were good exchanges of views on lessons learnt, and also pronouncements of specific support from the donor community and from developing countries for Lesotho's efforts to continue its policy reforms on investment. Overall, the review process was endorsed as a useful mechanism in experience sharing. A senior official from the Lesotho delegation was appreciative of the constructive views given by delegates and private sector representatives and affirmed that implementation should be the next stage. The representative of the UNCTAD secretariat took note of the request for follow-up and indicated that the response will take place within the interagency cooperation framework, as the Lesotho IPR was the first Review undertaken within the Integrated Framework involving six agencies.

II. INVESTMENT POLICY REVIEW OF NEPAL

8. The Investment Policy Review of Nepal was presented on 25 June 2003. In introducing the report, the representative of the UNCTAD secretariat outlined the various measures adopted by the Government of Nepal to attract foreign direct investment (FDI). Despite these efforts, Nepal does not attract much foreign direct investment. This is partly because a small, least developed, landlocked, mountainous country has little to offer to investors.

9. The investment framework is generally open and investor-friendly. The Foreign Investment and Technology Transfer Act of 1992 liberalized the entry of FDI and guaranteed repatriation of profit and capital. Nevertheless, investors still face obstacles. While the tax regime is favourable in certain sectors, the overall scheme is not competitive and its administration results in difficulties for investors. In the short term, as regulatory and administrative reforms are put in place, Nepal can attract more FDI in its niche sectors – such as tourism and production of herbs – with special investment packages. Also, Nepal has to be proactive in order to take further advantage of the Trade Treaty with India and its LDC trade preferences with developed countries. Nepal has medium- to long-term potential in hydropower, agro-processing and IT business, provided policy and infrastructure improvements are realized.

10. The main recommendations of the Review include establishment of an investment agency reporting to the highest authority, which has the mandate to advocate policy changes. Both taxation rules and implementation need to be streamlined. Burdensome levies in labour laws should be reviewed, and modern labour practices should be adopted. Being a landlocked country, Nepal should adopt a proactive policy to attract FDI.

11. The head of the Nepalese delegation, a member of the National Planning Commission of Nepal, outlined the various recent measures adopted by the Government to attract FDI. Fiscal reforms are proceeding, and the currency is convertible. The privatization effort has been accelerated. In selected sectors, income tax rates are a competitive 20 per cent. While improvements in labour laws may be warranted from an investor perspective, the Government also has to take account of the views of other stakeholders. The question of social responsibility needs to be addressed. A tripartite body is currently examining reform of the labour laws. The Government is committed to good governance and has enacted specific laws to deal with corrupt practices and financial accountability. The recent prosecution of high officials is an indication of its seriousness in tackling this issue.

12. In summary, Nepal needs private capital and the Government is resolved to follow the path of liberalization, in keeping with national priorities. He thanked UNDP for financing the Investment Policy Review and UNCTAD for carrying it out. He requested UNCTAD's assistance to support implementation of the findings of the Policy Review.

13. Representatives of India, Finland, China, Jordan, Sri Lanka, Ghana and Senegal appreciated the high-level participation by the Government of Nepal and welcomed the review process. The Ambassador of India noted that an assessment of the FDI experience needs to be qualified by the special circumstances faced by Nepal. The fact that Nepal is an LDC must be taken into account in implementing the recommendations. Its national priorities must be accommodated in formulating policies. Nepal should attract not only more FDI, but quality FDI. The representative of Finland recalled the long-term involvement of his country in bilateral programmes in LDCs and in Nepal in particular. As pointed out by the Policy Review, Nepal has a vibrant domestic business community that both the Government and foreign investors should take note of. The representative of China mentioned the considerable impediments to FDI in a land-locked country like Nepal. Repatriation of funds, a single window mechanism and, above all, transparency of regulations can promote FDI. The representative of Ghana endorsed the recommendation for creation of an investment agency, which should be autonomous to be effective. The representative of Senegal enquired about Nepal's business immigration policy. The representative of OECD referred to the synergies of a linkage between official development assistance (ODA) and FDI, especially regarding infrastructure development. Privatization is one way to bring FDI into infrastructure development.

14. The representative of the Asian Group complimented UNCTAD for a comprehensive report and noted that it identified and prioritized the main areas for improvement in the investment framework in the short, medium and long term. It is the Nepalese Government that should define its priorities and formulate its policies, in keeping with its national development objectives. The Chairman of the Board of Investment of Bangladesh enumerated the FDI potential that Nepal can capitalize on and recommended the creation of an investment promotion agency to promote, facilitate and deliver service to foreign investors; strengthening of the domestic industrial sector; and targeting of investors to take advantage of the Indian market.

15. The representatives of ITECO Engineering Ltd. (Switzerland) and MAS Textiles (Sri Lanka) stressed the importance of political stability and security, availability of credit, and financial rating by international rating agencies. The Director General of Nepal's Department of Industries spoke on the opportunities for investment, ranging from agriculture and agro-processing, hydropower development and manufacturing of many kinds, to services, including tourism. These are identified in the Investment Guide for Nepal, the outcome of another UNCTAD project, undertaken in collaboration with the International Chamber of Commerce. The importance of the Guide is that while Nepal may be known to certain segments of tourists, the investment opportunities are not well known to the business community.

16. The head of the Nepalese delegation, in his reply, re-emphasized the liberalization path Nepal has chosen and appreciated the interest shown by the international community in Nepal's development. The representative of the UNCTAD secretariat took note of the request for follow-up and assured the meeting of the continued cooperation of UNCTAD in this matter.